

REMARKS/ARGUMENTS

The Examiner is thanked for his continuing careful attention to this application. In an earlier amendment, in order to expedite prosecution of this case, applicant amended all pending claims to include subject matter indicated allowable by the Examiner. That indication of allowability has been withdrawn. In this amendment, Applicant has combined and cancelled claims to expedite prosecution.

REMARKS/ARGUMENTS

Applicant thanks the Examiner for his continuing attention to this case. In order to bring some clarity to the prosecution, Applicant has reviewed the Office Actions and responses filed in this case, to better understand the Examiner's present position. The prosecution of the case has been as follows:

1. A restriction requirement dated 2-June-2006 was the first action in the case. Applicant elected claims 7-12 and 14-22 for further prosecution.

2. An Office Action by Examiner Hal Ira Kaplan dated 22-Dec-06: rejected claims 7-12 and 14-16, and 20 under 35 U.S.C. § 102(e) as anticipated by Ewing (7,043,543);

rejected claims 17 as obvious in light of Ewing combined with Truong (6,160,873);

rejected claim 18 as obvious in light of Ewing in light of Japanese patent to Hartman;

rejected claim 19 as obvious in light of Ewing in combination with Reitmeier (7,068,145);

rejected claims and 21 and 22 as obvious in view of Ewing.

The Office Action also cited Sepe.

3. Amendments by Applicant dated 22-June-2007 and 27-August-2007 amended claims 15-18 and 20-22 and included a declaration swearing behind Ewing.

4. An Office Action by Examiner Hal Ira Kaplan dated 1-Nov-2007 indicated that the affidavit filed on June 27, 2007 under 37 CFR 1.131 was ineffective to overcome the Ewing reference as to claims 7-11 and 14-22 and thus maintained previous rejections for those claims. The Examiner found the affidavit was sufficient to overcome the 35 U.S.C.

102(e) rejection under the Ewing reference for claim 12. The examiner, after further consideration, found claim 12 unpatentable under 35 U.S.C. 103(a) in view of Ewing.

5. An Amendment by Applicant dated 1-April-2008 cancelled claim 18, and amended claim 7 to include all of the limitations of claim 12 and claim 14 to include the elements of claim 12, thus leaving claims 7-11, 14, 16-17, 19-22 under examination.

6. A Final Office Action (the current Office Action) by Examiner Hal Ira Kaplan dated 21-July-2008, held that Applicant's arguments with respect to claim 12 were moot in view of the new ground(s) of rejection. In that action, claims 7-11, 14, 16, and 20 were rejected under 35 U.S.C. 102(e) as anticipated by Ewing (7,043,543). Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ewing in view of the US patent of Truong et al. (6,160,873). Claim 19 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ewing in view of the US patent of Reitmeier (7,068,145). Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewing.

Status of the Claims

Claims 7-11, 14, 16-17, 19-22 remain under examination upon entry of this amendment.

Rejection of claim 12 under 35 U.S.C. § 103(a)

In the previous amendment, in order to expedite prosecution, Applicant amended claim 7 to include all of the limitations of claim 12 and cancelled claim 12. Applicant furthermore amended claim 14 to include the elements of claim 12. Other pending claims are dependent from either claim 7 or claim 14.

Applicants earlier response to the Examiner's earlier rejection of claim 12 was not addressed in the current office action and Applicant believes if this rejection is overcome, it would indicate allowability of all pending claims.

The current office action (rejection of 21-July-2008) rejects claims 7-11, 14, 16, and 20 under 35 U.S.C. 102(e) as being anticipated by the US patent of Ewing et al. (7,043,543) and states:

"the controller receiving current draw data (amps) from two or more current sensors (210) each individually sensing current drawn through one of the relays (212, 401-404), the current sensors thereby providing separate current readings for separate power outputs to the logic controller (224, 406, microprocessor of

Figure 3) (see column 3, lines 53-62; column 4, lines 50-54; column 7, lines 56-65; and Figures 2 and 3); the logic controller thereby able to report current draw data (amps) for two or more of the power outputs..."

However, the element "from two or more current sensors (210) each individually sensing current drawn through one of the relays" is among the features that are sworn behind in the Affidavit Of Inventor Charles Reynolds under 37 C.F.R. 5 1.131 filed 22 June 2007. This element, as described in originally filed claim 12:

"said plurality of relays comprise at least two relays each individually controlling one or more power outputs; and

said plurality of current sensors comprise at least two current sensors each individually sensing current drawn from one or more power outputs."

is not present in priority documents for Ewing, as previously indicated by the Examiner and thus the rejections under 35 U.S.C. § 102(e) of claims 7 and 14 should be withdrawn. This leaves the Examiner's earlier rejection under 35 U.S.C. § 103(a), which are argued below. These arguments remain pertinent, as the rejection under 35 U.S.C. § 102(e) of claims 7 and 14 should be withdrawn as discussed above.

Ewing (7,099,934)

In the earlier Office Action, claim 12 was newly rejected under 35 U.S.C. § 103(a) an allegedly obvious in light of Ewing under the rationale of *In re Harza*. Applicant respectfully traverses.

The examiner is correct that the court in *In re Harza*, stated:

"The only distinction to be found is in the recitation in claim 1 of a plurality of ribs on each side of the web whereas Gardner shows only a single rib on each side of the web. It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced..."

However, the *In re Harza* court went on to state later in the opinion that:

"we do not agree with the board's affirmance of the rejection of claim 7. In this claim there exists an element which is neither disclosed in Gardner nor in Gardner in view of Roberts and Schurman.... the feature of "each rib being substantially as high as the spacing between adjacent ribs." This is novel, and its utility, as expressed by the applicant, is apparent. Further, the combination of that element and the element

defined by the recitation of "the ribs on said opposite faces being laterally spaced in offset relation" is patentably distinguishable from the references. Although Roberts shows the offset positioning claimed, we believe the offsetting in combination with the claimed dimensional relationship of the ribs produces new and unobvious results which are not suggested by any combination of the references. The other combination recited in this claim which we believe patentable consists of the feature of "a plurality of parallel ribs in spaced relation to one another on each of said faces" and the element of the ribs on opposite sides being spaced in offset relation. Even though we found in considering claim 1, that the plurality of ribs is not patentable *per se*...we believe the two features taken together create a patentable combination.

In the presently presented claims, there is no "mere duplication of parts" present in Ewing (7,099,934). Ewing, Fig. 1, shows operating power sourcing into a sensor 100 and then entering a relay 112, which connects to a computer based appliance 114 and where the relay and sensor both communicate with a power manager. This is presented as a power supply for one computer based appliance 114.

For providing power management for more than one outlet using a single power manager, Ewing illustrates in both Figs. 2 and Figs. 3, operating power sourcing into a sensor 216 or 316 and then entering either a power distribution strip 214 or a relay bank 314. **In both cases, sensor 216 or 316 are not configured, as in pending claims 7 and 14, to individually monitor current to two or more outputs of the device.**

Thus, Ewing, in Fig. 1-3 and throughout teach current monitoring for an individual power manager (e.g., 124, 220, 320) is done on a per-power-manager basis and not on an individual output basis.

The present invention does not merely duplicate parts, as was held for the rejected claims of *In re Hazra*, but instead provides a feature not disclosed in Ewing or other references: (1) a power manager (logic processor) able to receive and report current sensing data from multiple current sensors; (2) two or more relays, each separately associated with two or more current sensors; (3) two or more current sensors each providing separate current monitoring of separate power outputs.

The element of "a power manager (logic processor) able to receive and report current sensing data from multiple current sensors" like the feature "each rib being substantially as high as the spacing between adjacent ribs" is novel, and its utility is

expressed in the application repeatedly as allowing monitoring current draw of individual devices in a single multi-output power switch, rather than monitoring the overall current of the power supply, as disclosed in Ewing.

"Individual current monitoring" is indicated as an important feature throughout the specification, such as ¶¶[0009], [0039], originally filed claims 1, 7, 12, 13, the individual current readouts for the eight outlets indicated in Fig. 5, the individual current readouts for the eight identified computer systems indicated in Fig. 13, and the per outlet high and low current alerts indicated in Fig. 15, as well as being indicated in Figs. 26 and 27.

As well as the descriptions of software objects on page 24, which clearly define different current monitoring objects, one for individual outputs and one for the total of the power supply (Compare the description of the CurrentInt object: "The amount of current the output is drawing, in Amps..." with the TotCurrentInt object: "The total amount of current the unit is supplying, in Amps....")

Thus, under the holding of *In re Hazra*, amended claims 7 and 14 are patentable over Ewing.

In light of the above, Applicant has demonstrated the allowability of the two remaining independent claims over the prior art. Applicant believes the remaining rejections of dependent claims should therefore also be withdrawn.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3508.

If after consideration of the above response, the Examiner does not find that all pending claims are in condition for allowance, **applicant hereby requests a telephone interview with the Examiner. Please contact the undersigned at (510) 769-3508.**

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Respectfully submitted,

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